

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF SMALL BUSINESS ADVOCATE

Suite 1102, Commerce Building
300 North Second Street
Harrisburg, Pennsylvania 17101

DOCKET FILE COPY ORIGINAL

Bernard A. Ryan, Jr
Small Business Advocate

(717) 783-2525
(717) 783-2831 (FAX)

August 6, 2001

OVERNIGHT MAIL

Magalie Roman Salas, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W., TW-B204
Washington D.C. 20554

RECEIVED

AUG - 6 2001

FCC MAIL ROOM

**Re: Application by Verizon Pennsylvania, Inc.
For Authorization under Section 271 of the
Communications Act to Provide In-Region,
InterLATA Service in the State of Pennsylvania
CC Docket No. 01-138**

Dear Secretary Salas:

Enclosed please find an original and four (4) copies of the Reply Comments of the Pennsylvania Office of Small Business Advocate. These Reply Comments have also been filed with the Commission electronically.

Please indicate receipt of this filing on the additional copy provided and return it to the undersigned in the enclosed self-addressed, postage prepaid, envelope.

Sincerely,

Angela T. Jones
Assistant Small Business Advocate

Enclosures

cc: Janice Myles, Common Carrier Bureau (12 copies)
International Transcription Service (1 copy)
James J. McNulty, Secretary, Pa. PUC (1 copy)
Kelly Trainor, U.S. Department of Justice (1 copy)
Philip F. McClelland, Pa. OCA (1 copy)

No. of Copies rec. 014
List A B C D E

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF SMALL BUSINESS ADVOCATE

Suite 1102, Commerce Building
300 North Second Street
Harrisburg, Pennsylvania 17101

Bernard A. Ryan, Jr
Small Business Advocate

(717) 783-2525
(717) 783-2831 (FAX)

August 6, 2001

OVERNIGHT MAIL

Magalie Roman Salas, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W., TW-B204
Washington D.C. 20554

RECEIVED

AUG - 6 2001

FCC MAIL ROOM

**Re: Application by Verizon Pennsylvania, Inc.
For Authorization under Section 271 of the
Communications Act to Provide In-Region,
InterLATA Service in the State of Pennsylvania
CC Docket No. 01-138**

Dear Secretary Salas:

Enclosed please find an original and four (4) copies of the Reply Comments of the Pennsylvania Office of Small Business Advocate. These Reply Comments have also been filed with the Commission electronically.

Please indicate receipt of this filing on the additional copy provided and return it to the undersigned in the enclosed self-addressed, postage prepaid, envelope.

Sincerely,

A handwritten signature in cursive script that reads "Angela T. Jones".

Angela T. Jones
Assistant Small Business Advocate

Enclosures

cc: Janice Myles, Common Carrier Bureau (12 copies)
International Transcription Service (1 copy)
James J. McNulty, Secretary, Pa. PUC (1 copy)
Kelly Trainor, U.S. Department of Justice (1 copy)
Philip F. McClelland, Pa. OCA (1 copy)

Before the
Federal Communications Commission
Washington, DC 20554

RECEIVED

AUG - 6 2001

FCC MAIL ROOM

In the Matter of :
Application by Verizon Pennsylvania, :
Inc., Verizon Long Distance, :
Verizon Enterprise Solutions, :
Verizon Global Networks, Inc., : CC Docket No. 01-138
And Verizon Select Services, Inc. :
For Authorization to Provide :
In-Region, InterLATA Services :
in Pennsylvania. :

REPLY COMMENTS
REGARDING APPLICATION BY VERIZON PENNSYLVANIA, INC.
FOR AUTHORIZATION TO PROVIDE IN-REGION,
INTERLATA SERVICES IN PENNSYLVANIA

SUBMITTED BY

PENNSYLVANIA OFFICE OF SMALL BUSINESS ADVOCATE

ANGELA T. JONES
ASSISTANT SMALL BUSINESS ADVOCATE

SUITE 1102, COMMERCE BUILDING
300 NORTH SECOND STREET
HARRISBURG, PA 17101
(717) 783-2525

DATE: AUGUST 6, 2001

TABLE OF CONTENTS

I.	INTRODUCTION AND SUMMARY OF ARGUMENT	1
A.	Introduction	1
B.	Summary of Comments	2
II.	WHITE PAGES DIRECTORY LISTINGS – Checklist item 8 (47 U.S.C. § 271(c)(2)(B)(viii)	3
A.	Statutory Standard	3
B.	VZ-PA has Demonstrated Compliance	4
C.	Infirm Metric Issue Should Not Bar Compliance	8
III.	CONCLUSION	10

I. INTRODUCTION AND SUMMARY OF ARGUMENT

A. Introduction

On June 21, 2001, Verizon of Pennsylvania, Inc. ("VZ-PA")¹, et al. filed its application for authorization to provide in-region, interLATA service in the Commonwealth of Pennsylvania pursuant to section 271 of the federal Telecommunications Act of 1996 ("TA-96" or the "Act")². Also on June 21, 2001, the Federal Communications Commission ("Commission" or "FCC") provided Public Notice establishing procedural requirements that apply to processing and participation in the proceeding.

The Pennsylvania Public Utility Commission ("PaPUC") filed its written consultation on June 25, 2001 in compliance with the procedural schedule. Various parties including Broadslate Networks, Inc., CTSI, Inc. ("CTSI"), XO Communications, Inc. ("XO") (collectively, "Joint Parties") and the Pennsylvania Office of Consumer Advocate ("PaOCA") (Joint Parties and PaOCA collectively, "opponents") submitted comments in accordance with the procedural schedule on or before July 11, 2001. The U.S. Department of Justice ("DOJ") filed its written consultation in the matter on July 26, 2001. The FCC established by Public Notice that any interested third party Reply Comments are due on or before August 6, 2001.

The Pennsylvania Office of Small Business Advocate ("PaOSBA") submits these Reply Comments in compliance with the procedural schedule and in response to the Comments of the Joint Parties and PaOCA. It is the intent of the PaOSBA through these Reply Comments to provide an alternative perspective and clarification on the white pages directory listings, an issue in dispute in

¹Full application read, Verizon Pennsylvania, Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services, Inc.

²47 U.S.C. § 271.

this proceeding that affects the interests of VZ-PA's customers -- especially its small business customers.

B. Summary of Comments

Simply put, the Comments of CTSI and XO recommend emphatic rejection of VZ-PA's Application without greater automation in the processing of competitive local exchange carrier ("CLEC") white pages listings. Additionally, the PaOCA recommends noncompliance with the white pages checklist item because the processing of listings as they existed when service was obtained from the incumbent local exchange carrier ("ILEC") is reentered into the system once the customer leaves the incumbent to a competitor. The PaOSBA finds that this result of noncompliance with the white pages checklist item is drastic and unreasonable based on the evidence.

The standard of satisfactory performance of parity in the processing of white pages should be reasonable similarity. To hold VZ-PA to 100% parity in the processing of white pages as well as the product that they produce for their customers, the CLEC, is to never obtain compliance. Further, to condone CLECs of unaccountability for lower accuracy due to their own errors and understanding of the process as for information in white pages directory listings is illogical. A noncompliance result is not supported by the evidence. It would delay dividends related to innovations, service discounts, customization and quality to Pennsylvania small businesses where a result of 100% equivalency to the process for VZ-PA's retail customers can never be obtained. The PaOSBA cannot make such a recommendation and the PaPUC saw the wisdom in not abiding by that standard.

II. WHITE PAGES DIRECTORY LISTINGS – Checklist item 8 (47 U.S.C. § 271(c)(2)(B)(viii))

A. Statutory Standard

TA-96 requires the ILEC to provide “white pages directory listing for customers of the other carrier’s telephone exchange service.”³ The Act also requires all ILECs to permit CLECs providing local and toll telephone service to have nondiscriminatory access to directory listings.⁴

This Commission has previously concluded, “consistent with the Commission’s interpretation of ‘directory listing’ as used in section 251(b)(3), the term, ‘white pages’ in section 271(c)(2)(B)(viii) refers to the local alphabetical directory ... includ[ing] the residential and business listings of the [local exchange carriers’] customers.”⁵ It has also been concluded that the term “directory listing” as used here refers to, at a minimum, the subscriber’s name, address, telephone number, or any combination of those elements.⁶ Lastly, the Commission has established a two prong test to demonstrate compliance with checklist item 8. The ILEC must establish that it provides: (1) nondiscriminatory appearance and integration of white page directory listings to

³47 U.S.C. § 271(c)(2)(B)(viii).

⁴47 U.S.C. § 251(b)(3).

⁵In the Matter of Application of BellSouth Corp., et al, for Provision of In-Region, InterLATA Services in Louisiana, (“Second BellSouth Louisiana Order”), 13 FCC Rcd 20748, Memorandum Opinion and Order, FCC 98-271, ¶ 255, (rel. October 13, 1998).

⁶Id. See also, In the Matter of Application by SBC Communications, Inc., et al., Pursuant to Section 271 of the Telecommunications Act Of 1996 To Provide In-Region, InterLATA Services in Texas (Texas 271 Order), 15 FCC Rcd. 18354, Memorandum Opinion and Order, FCC 00-238, ¶ 353 (rel. June 30, 2000).

CLECs' customers; and (2) white page listings for CLECs' customers with the same accuracy and reliability as provided to its own customers.⁷

Regarding the first prong, the FCC has previously stated, "To compete effectively in the local exchange market, new entrants must be able to provide service to their customers at a level that is comparable to the service provided by the BOC.... A white pages directory listing [supplied] in a nondiscriminatory fashion require[s] that the listing the BOC provides to a competitor's customers is identical to, and fully integrated with, the BOC's customers' listings."⁸ To comply with nondiscriminatory accuracy and reliability of white page listings the FCC "require[s] that, at a minimum, a BOC have procedures in place that are intended to minimize the potential for errors in the listings provided to the customers of a competing telecommunications service provider."⁹ No party has contested the integration or appearance of the listings. Opponents have challenged whether difficulties resulting in errors and omissions of the white pages directory listings experienced by some CLECs reflect systemic problems with the ILEC's provisioning process. Additionally, these parties assert that the ILEC's provisioning process of white pages listings yields discriminatory treatment of some CLECs' listings.¹⁰

B. VZ-PA has Demonstrated Compliance

The Joint Parties commented that VZ-PA has provided erroneous or omitted directory listings for many of their customers. They also assert that VZ-PA's performance has failed to meet

⁷Id.

⁸Second BellSouth Louisiana Order, 13 FCC Rcd 20748, ¶ 256.

⁹Id., 13 FCC Rcd 20749, ¶ 257.

¹⁰A conclusion affirming this issue would result in VZ-PA not satisfying the second prong of the compliance test for white pages directory listing accuracy and reliability.

its parity obligations under Checklist item 8 for directory listings. The result of VZ-PA's performance according to the Joint Parties is that directory listing errors are disproportionately more frequent for facilities-based CLECs than for CLECs utilizing UNE platform, resellers and VZ-PA's retail customers.¹¹

The OSBA finds the assertions of the Joint Parties inflated and one-sided.

VZ-PA experienced 1,156 white pages directory listing errors for its retail customers in 2000. Considering just three published directories, CLEC customers had a total of 2,119 erroneous listings in 2000.¹² The record evidence however is not complete or compelling to warrant the problem of sufficient magnitude for noncompliance.

This Commission previously has found the following as persuasive evidence : (1) the ILEC provides the CLEC with instructions for obtaining a listing in the white pages directory inclusive of format, descriptions, schedules and updating procedures; and (2) the ILEC affords the CLECs a reasonable opportunity to verify the accuracy of listings to be included in the white pages directory.¹³ According to the record, VZ-PA has met this minimum standard here. No opponent has offered evidence to the contrary.

The record shows that the complaining facilities-based CLECs have misunderstood rules that VZ-PA has had in place for receiving white pages listings data, transmitted typographical errors to VZ-PA for publication in the directories and failed to comprehend the consequences of the

¹¹Comments of Broadslate Networks, Inc., CTSI, Inc, and XO Communications, Inc., Application by Verizon Pennsylvania, Inc. for Authorization under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of Pennsylvania, CC Docket No. 01-138, July 11, 2001, at 15-16.

¹²See, OSBA Final Comments, Consultative Report on Verizon-Pennsylvania, Inc. for FCC Authorization to Provide In-Region, InterLATA Service in Pennsylvania (PaOSBA Final Comments) Docket No. M-00001435, April 18, 2001, at 5 (attached here at Appendix B).

¹³Second BellSouth Louisiana Order, 13 FCC Rcd 20749-50, ¶ 258.

process which may have resulted in incorrect end users' listings.¹⁴ Additionally, there remains the possibility of unreported errors to VZ-PA, CLECs do not track errors, no complaints have been filed with the PaPUC on white pages listing accuracy, third party KPMG Consulting found VZ-PA provisioned over 98% test orders and the CLEC community proposed and chose a remedy concerning white pages provisioning that may not be implemented until, best case, February 2002. Yet, no opponent petitioned the PaPUC to explore expediting implementation of the remedy in Pennsylvania.¹⁵ The magnitude and severity of a white pages directory listing problem becomes questionable upon the backdrop of this record evidence.

This Commission has held that it cannot hold the ILEC to a standard of perfection. Evidence of a systemic problem involving irregularities with a significant number of listings, however, would warrant noncompliance. The PaOCA alleges a systemic problem in the provisioning of directory listings.¹⁶

Again, the PaOSBA cannot agree. The facilities-based CLECs must bear some of the responsibility for incorrect and omitted listings in the published white pages directory as a consequence of their misunderstandings and miscommunications with VZ-PA during the processing. Additionally, the CLECs do not monitor errors in the white pages directory publications.¹⁷ VZ-PA

¹⁴PaOSBA Final Comments, at 7. (PaPUC Tech. Conf. 3-1-01 Tr. at 207-11; PaPUC Tech. Conf. 3-21-01 Tr. at 36-51, 54-60, 67-70, 168-72.)

¹⁵See, PaPUC Consultative Report, Re Application of Verizon Pennsylvania, Inc., et al, for Authorization Under Section 271 of Communications Act to Provide In-Region, InterLATA Service in the Commonwealth of Pennsylvania, (PaPUC 271 Consultative Report); CC Docket No. 01-138, at 208, and also Response of OSBA to Staff's Data Request Number 1, Docket No. M-00001435, May 7, 2001 (Attached here at Appendix C).

¹⁶Comments of the Pennsylvania Office of Consumer Advocate in CC Docket No. 01-138, Application by Verizon Pennsylvania, Inc. for Authorization under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of Pennsylvania, (PaOCA Comments), July 11, 2001, at 18.

¹⁷See, PaPUC 271 Consultative Report, at 208.

has proposed that the CLECs have one contact for communicating errors in the listing verification reports.¹⁸ This modification in the directory listing process was solicited by the CLECs.

Furthermore, the opponents seem to disregard that the ILEC is not to be held to a standard of perfection. The OSBA witness, Mr. Stanford Levin, Ph. D., testified to the following:

MR LEVIN: [D]irectories are not 100 percent accurate and the processes are not 100 percent accurate, and I don't think that you'll ever have 100 percent parity, but ... I think it's close enough. There are problems on both sides and I do think people are trying to resolve those problems.

* * *

COMMISSIONER FITZPATRICK: Do you have any idea of the magnitude of the difference in the quality with regard to the directory listings?

MR LEVIN: Between the CLECs and [VZ-PA], no, I don't know.

COMMISSIONER FITZPATRICK: That being the case, how – this is one of the 14 checklist items. I mean, they have to demonstrate compliance with this. Without any idea based upon facts of error rate for [VZ-PA's] own listings versus the CLEC listings, how can you say that this has been met in a nondiscriminatory manner?

MR LEVIN: I have two parts to my response.

COMMISSIONER FITZPATRICK: Okay.

MR LEVIN: One is that as you can just hear from VZ-PA, the error rate even for the CLECs is quite low. The directory they were talking about, for instance, was 99.2 percent correct. So there was an eight-tenths of one percent error rate even for the CLECs.

* * *

MR LEVIN: ...Second of all, there is an advantage to allowing [VZ-PA] to provide in-region long distance, and that introduces more competition and it is particularly advantageous to small business customers and I would assume to residential customers...

COMMISSIONER FITZPATRICK Well, that second point now sounds like, well, we'd like to let them in, so maybe we're willing to overlook some other things.

¹⁸Id., at 195.

MR LEVIN: No. I think it goes more to the unattainability of a perfection standard. If we hold [VZ-PA] to perfection, then they never enter the long distance market, because it is impossible to be 100 percent correct. I just think that it's important when we decide how close to perfect that we want, that we understand that there is a tradeoff.¹⁹

The OSBA agrees with the conclusion of the PaPUC that the magnitude of the problems experienced on this issue, does not rise to noncompliance.²⁰

C. Infirm Metric Issue Should Not Bar Compliance

The PaOCA requests that a metric be developed relating to the accuracy of directory listings.²¹ The PaOCA lists the current metrics related to directory listings as: OR-6, Order Accuracy; PO-2, OSS Interface Availability; and GE-1, Directory Listing Verification Reports. None of these metrics measure the accuracy of the directory listings as published.

The irregularities in listing processing and in the published directories should be monitored and deciphered to protect the consumer from economic hardship suffered from erroneous and omitted listings. The metrics currently in place are insufficient in tracking directory listing accuracy.²² The PaOCA demonstrates by referencing record evidence that VZ-PA does not track the error rate of published CLECs' listings versus Va-PA's retail customers listings. The PaOCA comments that a metric be required to illuminate directory listing problems and to resolve them.²³

¹⁹PaPUC April 26, 2001 En Banc Hearing, Tr. 352-54 (attached as Appendix A).

²⁰PaPUC 271 Consultative Report, at 208.

²¹PaOCA Comments, at 28.

²²Id at 31.

²³Id.

The PaOSBA commented similarly to the PaPUC. The PaOSBA requested that should the PaPUC recommend approval of VZ-PA's Application, approval should be contingent upon VZ-PA creating, tracking, implementing and subjecting itself to penalties corresponding to a directory listing accuracy metric before compliance.²⁴

The PaPUC, however, concluded, "[w]hile the record suggests the merit of having a directory listing accuracy metric, we do not presently believe that establishment of such a metric is required as a pre-condition for attaining compliance with Checklist item 8."²⁵ Additionally as the PaOCA concedes in its Comments, "the [PaPUC] has commenced a proceeding, Re: Performance Measure Remedies at Docket No. M-00011468, in part to deal with the issue of metric development...."²⁶

The PaPUC stated,

...Verizon PA offers to work with interested parties in the forthcoming metrics and remedies proceeding to develop an appropriate metric, within the present OR-6 Order Accuracy metric, to measure the accuracy of CLEC directory listing information which would involve a daily sampling of manually processed "loop/LNP" and "LNP only" LSRs and DSRs.²⁷

It is clear that there is no controversy over whether there should be a metric to measure directory listing accuracy. The issue currently is when such metric will be implemented. While the PaOSBA's preferred course of action would have been for the PaPUC to order compliance contingent upon a date certain for a white pages accuracy metric to be implemented, we can accept the current outcome rather than to have this Commission bar VZ-PA's Application on this issue.

²⁴PaOSBA Final Comments, at 13-15.

²⁵PaPUC 271 Consultative Report, at 209.

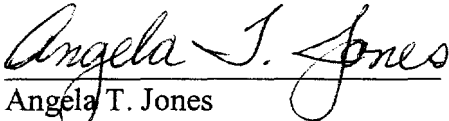
²⁶PaOCA Comments at 31-32 (footnote omitted).

²⁷PaPUC 271 Consultative Report, at 196 (footnote omitted).

III. CONCLUSION

For the reasons set forth in these Reply Comments the Pennsylvania Office of Small Business Advocate respectfully requests this honorable Commission to affirm the recommendation of the Pennsylvania Public Utility Commission and approve the Application of Verizon Pennsylvania, Inc, et al., as in compliance with Sections 251(b)(3) and 271(c)(2)(B)(viii) of the federal Telecommunications Act of 1996 consistent with the arguments contained herein.

Respectfully submitted,


Angela T. Jones
Assistant Small Business Advocate

Dated: August 6, 2001

APPENDIX

A

1 that out?

2 MR. SAVINO: I can't answer for the post office.

3 COMMISSIONER BROWNELL: So you don't know.

4 MR. SAVINO: I --

5 COMMISSIONER BROWNELL: So that these areas may, in
6 fact, be significant or not significant. We just don't know
7 the impact of them because we haven't spoken to the
8 customer, nor do we know if there are any implications for
9 delivery of mail or anything else. You don't know that?

10 MR. SAVINO: I don't know that.

11 COMMISSIONER BROWNELL: Okay. Thank you. That's
12 all.

13 JUDGE WEISMANDEL: Commissioner Fitzpatrick?

14 COMMISSIONER FITZPATRICK: Yes.

15 COMMISSIONER FITZPATRICK: I'll direct my question to
16 the OSBA witness, Dr. is it Levin?

17 MR. LEVIN: Levin.

18 COMMISSIONER FITZPATRICK: Is it your opinion that
19 this checklist item, White Pages directory listings, should
20 not be determinative as to the Section 271 approval?

21 MR. LEVIN: In my opinion, I believe that it has been
22 sufficiently satisfied that it shouldn't hold up the 271
23 approval.

24 COMMISSIONER FITZPATRICK: But you do believe there
25 are problems with the directory listings for CLECs?

1 MR. LEVIN: Well, directories are not 100 percent
2 accurate and the processes are not 100 percent accurate, and
3 I don't think that you'll ever have 100 percent parity, but
4 having read the materials that have been submitted here, I
5 think it's close enough. There are problems on both sides,
6 and I do think people are trying to resolve those.

7 I have recommended in my written testimony that there
8 be some ongoing monitoring.

9 COMMISSIONER FITZPATRICK: Do you have facts or an
10 opinion as to the relative magnitude of the problems in the
11 directory listings for CLECs versus the directory listings
12 for Verizon's own customers?

13 MR. LEVIN: There has not been evidence submitted to
14 give you a quantitative answer to that. Qualitatively, I
15 think that the error rate for the CLECs is probably higher
16 than for Verizon's own customers, but that's more of an
17 impression from reading everything than something that you
18 can get from the numbers.

19 COMMISSIONER FITZPATRICK: Do you have any idea of
20 the magnitude of the difference in the quality with regard
21 to the directory listings?

22 MR. LEVIN: Between the CLECs and Verizon, no, I
23 don't know.

24 COMMISSIONER FITZPATRICK: That being the case, how
25 -- this is one of the 14 checklist items. I mean, they have

1 to demonstrate compliance with this. Without any idea based
2 upon facts of the error rate for Verizon's own listings
3 versus the CLEC listings, how can you say that this has been
4 met in a nondiscriminatory manner?

5 MR. LEVIN: I have two parts to my response.

6 COMMISSIONER FITZPATRICK: Okay.

7 MR. LEVIN: One is that as you can just hear from
8 Verizon, the error rate even for the CLECs is quite low.
9 The directory they were talking about, for instance, was
10 99.2 percent correct. So there was an eight-tenths of one
11 percent error rate even for the CLECs.

12 COMMISSIONER FITZPATRICK: Do you accept those
13 numbers?

14 MR. LEVIN: Yes. In other words, I believe that the
15 calculations were done correctly and I believe that they
16 were done using the CLEC's own claims about what was not
17 correct.

18 Second of all, there is an advantage to allowing
19 Verizon to provide in-region long distance, and that
20 introduces more competition and it is particularly
21 advantageous to small business customers and I would assume
22 to residential customers.

23 So there is a tradeoff here, and if we insist on --

24 COMMISSIONER FITZPATRICK: Well, that second point
25 now sounds like, well, we'd like to let them in, so maybe

1 we're willing to overlook some other things.

2 MR. LEVIN: No. I think it goes more to the
3 unattainability of a perfection standard. If we hold
4 Verizon to perfection, then they never enter the long
5 distance market, because it is impossible to be 100 percent
6 correct. I just think that it's important when we decide
7 how close to perfection that we want, that we understand
8 that there is a tradeoff.

9 COMMISSIONER FITZPATRICK: Thank you.

10 JUDGE WEISMANDEL: Commissioner Wilson?

11 COMMISSIONER WILSON: Just a couple of questions.
12 Would you have to be a local person, item 11, to know
13 whether School House is one word two words? And the other
14 question I have is Bethlehem from Bethlehem City, wouldn't
15 it be separated by zip codes so the person quite possibly
16 would still get their mail?

17 MR. SAVINO: Steve Savino. As a local person, I
18 would -- well, I'm going to give you my own example. I live
19 on Old Town Road. Whether you have it as R-d or R-o-a-d, I
20 still get -- I'm still locatable. Now, as a local person,
21 you may be more familiar with the town of Center Valley and
22 know that you have a School House Lane versus Schoolhouse
23 Lane.

24 COMMISSIONER WILSON: That was the point I was trying
25 to make. It could be one word or it could be two words, and

APPENDIX

B

TABLE OF CONTENTS

I.	INTRODUCTION AND SUMMARY OF COMMENTS	1
A.	Introduction	1
B.	Summary of Comments	2
II.	COMMENTS	4
A.	Checklist Item 8	4
1.	White pages non-pricing issues	4
a.	Parity Sub-issue – Product	5
b.	Parity Sub-issue – Process	9
2.	Summary Cross-Reference to Metric Issues	11
B.	Metrics, OSS and Performance Assurance Plan	12
C.	Other Relevant Issues	15
1.	Effect of pending litigation and appeals	15
2.	Public Interest	16
III.	CONCLUSION	19

I. INTRODUCTION AND SUMMARY OF COMMENTS

A. Introduction

On November 30, 2000, the Pennsylvania Public Utility Commission (“Commission” or “PUC”) issued a *Procedural Order*¹ providing Verizon Pennsylvania, Inc. (“VZ”) and the telecommunications industry advocates with a framework for verifying VZ’s compliance with the requirements of Section 271 (c) of the Telecommunications Act of 1996.² On January 8, 2001, VZ made its filing under the *Procedural Order* Docket for a Consultative Report on Application of Verizon Pennsylvania Inc., for FCC Authorization to Provide In-Region, InterLATA Service in Pennsylvania (“*VZ 271 Petition*”) in this proceeding.

Various parties intervened in this proceeding including, the Office of Trial Staff (“OTS”), the Office of Consumer Advocate, (“OCA”), the Office of Small Business Advocate (“OSBA”), the Pennsylvania Cable & Telecommunications Association (“PCTA”), AT&T Communications of Pennsylvania, Inc. (“AT&T”), CTSI, Inc. (“CTSI”), and XO Pennsylvania, Inc. (“XO”). The first technical conference involving the parties was held on January 26, 2001 to establish the schedule of the technical conference. The initial schedule was issued by Order dated January 26, 2001.³

Initial Comments were filed by the active parties on February 12, 2001. The OSBA filed the Testimony of Stanford L. Levin, Ph. D., OSBA Statement No. 1, on February 12, 2001. The OSBA initially identified: (1) directory listing white pages -- checklist item 8, and (2) the public

¹ Consultative Report on Application of Verizon Pennsylvania, Inc. for FCC Authorization to Provide In-Region, InterLATA Service in Pennsylvania, Docket No. M-00001435, entered November 30, 2000.

² 47 U.S.C. § 271(c).

³ The schedule was subsequently modified on several occasions to accommodate the parties’ participation and the progression of issues.

interest as issues that it would pursue throughout this proceeding. The OSBA subsequently identified VZ's need to withdraw pending appeals as a legal issue affecting this proceeding.

From February 1, 2001 through April 10, 2001, the OSBA participated in numerous technical conferences with specific participation in those conferences where the above three (3) identified issues were the topics of discussion. These technical conferences were presided over by Administrative Law Judges ("ALJs") Wayne L. Weismandel and Michael C. Schnierle with Commission staff monitoring and participating.

On March 22, 2001, the ALJs issued a Briefing/Final Comments Order providing content instruction on the parties' Final Comments. The OSBA is filing these Final Comments in compliance with that Order.

B. Summary of Comments

The technical conferences concerning white pages directory listings reveal that the contested issue is one of parity. The parity issue is accuracy and reliability of white pages listings for CLECs' customers to be comparable to the listings VZ provides for its retail customers. Parity of white pages should occur with the product and the process that produces the listings.

The parity standard cannot be 100%. Such a standard would be unreasonable and never achieved. The standard for satisfactory performance of parity should be reasonable similarity.

Regarding the directory product, VZ retail customers and CLEC customers experience erroneous white pages directory listings. What is troubling is that CLECs' erroneous white pages listings significantly exceeded those of VZ retail customers. The record, however, reveals that the CLECs bear some responsibility for these errors for their customers' listings.

In reference to the directory process, the OSBA finds it unrealistic to insist upon 100% parity since VZ must protect its systems for integrity, accountability and proprietary purposes.

However, the manual entry of over 50% of the CLEC orders in the processing of white pages listing data is inherently susceptible to greater error than an automatic flow-through process. The OSBA would challenge VZ to provide more automation in the processing of CLEC customers' white pages listings.

The OSBA recommends continued oversight by the Commission on a going-forward basis through collaboratives or technical conferences attended by representatives of the telecommunications industry in Pennsylvania and the public advocates. These collaboratives would be informal and non-adversarial. The OSBA recommends that any approval of the *VZ 271 Petition* should be contingent upon automation of the white pages listings process by a date certain. The OSBA suggests that the collaborative be used to establish a new metric for the white pages directory listings. Additionally, the new metric should be correlated with the performance assurance plan and associated with liquidated damages if the VZ fails to ²meet the metric standard.

Summarily, the OSBA does not oppose the approval of the *VZ 271 Petition*. However, the OSBA does urge the Commission to:

- (1) condition the approval upon improving automation of the white pages directory listing process,
- (2) continue to monitor VZ specifically concerning white pages by establishing a metric by a date certain that measures the accuracy of the listings and provides liquidated damages when the metric is not satisfied,

- (3) require VZ, if it has not already done so, to withdraw the following:
 - (a) the state appeal to the Pennsylvania Supreme Court concerning the *Global Order* issues (excluding structural separation),
 - (b) the federal appeal in the Eastern District Court of Pennsylvania concerning the *Global Order* issues (excluding structural separation), and
 - (c) the state appeal to the Pennsylvania Commonwealth Court concerning the *PMO Order* issues, and
- (4) permit the parties to address the public interest issue.

II. COMMENTS

A. Checklist Item 8

1. White pages non-pricing issues

Checklist item eight (8) of the Telecommunications Act of 1996 requires the Regional Bell Operating Company (“RBOC,” in this case VZ) to provide white pages listings for customers of the other carrier’s telephone exchange service.⁴ The FCC found that a RBOC satisfies the requirements of checklist item eight by demonstrating that it:

- (1) provided nondiscriminatory appearance and integration of white page directory listings to competitive local exchange carriers’ (“CLECs”) customers, and
- (2) provided white page listings for competitors’ customers with the same accuracy and reliability that it provides its own customers.⁵

The OSBA’s interpretation of the record from the technical conference is that the latter of this two prong test is at issue. This is the parity issue for white pages.

⁴ 47 U.S.C. § 271(c)(2)(B)(viii).

⁵ *Second BellSouth Louisiana Order*, 13 FCC Rcd 20599, 20748 ¶ 253.

The OSBA sees two (2) distinct sub-issues in the parity issue, those being (1) the product and (2) the process. The product is whether the end-user, that being the customer, of either VZ or a CLEC, obtains a correct listing in the annually published white pages directory. The process is the mechanics used by VZ and the CLECs to obtain the product.

a. Parity Sub-issue – Product

Focusing on the product sub-issue first, the record supports that erroneous listings for VZ retail customers totaled 1,156 directory listing errors for the year 2000.⁶ This point provides evidence that VZ retail customers do suffer from erroneous listings in white pages. Similarly, CLEC customers that had erroneous listing for 2000 totaled 2,119.⁷ The total amount of listings that VZ handles including listings for independent rural local exchange carriers, CLECs, and its own retail customers is 4.9 million, while VZ handles 514,400 listings for just CLECs and resellers.⁸ From these figures the error rate for the CLECs is 0.4119%.⁹ Clearly this error rate is understated because the erroneous listings concern just the three supplemental publications in 2000 and not all of the directories where CLEC customer listings should appear. The record data does not provide an opportunity to calculate the VZ error rate. Because VZ has stated several times that it does not keep track of its own retail customers' listing errors, the error quantity of 1,156 may be

⁶ See CTSI Exhibit No. 1, Interrogatory No. 30. Admittedly, this number reflects only those listing errors reported to Verizon by retail customers. There exists the possibility of an erroneous directory listing that was not reported to Verizon by a retail customer. An error includes incorrect and omitted listings.

⁷ See OSBA Exhibit Nos. 1, 2, and 7 in which GTE was counted as an independent rural local exchange carrier. There exists the possibility that an erroneous directory listing occurred where neither a supplemental directory nor notice to the end-user customer was provided so that error therefore was not included in the total.

⁸ See CTSI Exhibit No. 1, Interrogatory No. 30 and 3-1-01 Tr. at 69 .

⁹ $2119/514,400 = .004119$

understated.¹⁰ Additionally, the number of VZ retail customer listings excluding the independent rural carrier listings is unknown. However, the listings of VZ retail customers and independent rural carrier is known to be 4,385,600.¹¹

The data show a difference between the errors for VZ retail customers and CLEC customers that troubles the OSBA. The errors seemed more abundant for CLEC customers than VZ retail customers. Clearly, this is more a qualitative conclusion than a quantitative conclusion because of the caveats surrounding the record data.. There may be some incentive for VZ to provide said data if VZ needed to provide calculations to display that it is achieving parity or, in the alternative, achieving some benchmark imposed by the Commission specific to white pages listings.¹² VZ states that “although (the end user) is not our customer, (the CLEC) is our customer. It is our book that we want correct, so we will work with whoever is necessary.”¹³ The OSBA suggests that the above sentiment by VZ should be put into action on a going-forward basis with the Commission holding VZ accountable to just that standard. The OSBA will address this idea within its recommendation concerning actions on a going-forward basis.

The OSBA recognizes that any customer listing omitted or published erroneously results in economic harm to that customer and negatively impacts the reliability of the directory. The qualitative conclusion that CLEC customer listing errors outweigh VZ retail customer listing errors

¹⁰ 3-1-01 Tr. at 32-33, 3-13-01 Tr. at 23-24, 3-21-01 Tr. at 120,125.

¹¹ 4.9 million - 514,400 = 4,385,600.

¹² VZ demonstrated that such specific data for the CLECs could be unearthed from their database as it presented in VZ Exhibits 8 and 9 more detail of the errors in XO Communication’s listings and CTSI’s listings as a rebuttal to damaging testimony these CLECs had submitted against VZ in satisfying checklist item 8.

¹³ 3-1-01 Tr. at 95.

calls into question whether VZ is meeting the parity standard that it is to uphold to gain approval of satisfying the white pages checklist item. However, VZ should not be penalized for unsatisfactory performance of a checklist item if responsibility for the errors can be borne by the CLECs.

From the technical conferences the OSBA has observed that the CLECs misunderstood rules, transmitted typographical errors and failed to comprehend the consequences of the process that most probably have resulted in the end users' listings published incorrectly.¹⁴ Moreover, VZ has upgraded the software available to CLECs so that directory listing information transmitted by the CLEC and captured by VZ is shown.¹⁵ Currently, however, some portion of the CLEC community is not using that software but is still using a previous version that does not have said capability. There is the sense that once CLECs have migrated to the newer software interface, data input correlated with the correct publication result will be improved.

VZ's directory organization management has occasionally made decisions to publish supplemental directories to correct its white pages directory listings.¹⁶ These supplements were issued at no cost to the ratepayer or CLECs and have been issued for corrections concerning VZ retail customers, CLEC customers and independent rural carrier customers.¹⁷ VZ has submitted data that KPMG reviewed 156 directory listings and determined that 98% accurately reflected the information on the Local Service Requests (LSRs) submitted by CLECs and Resellers.¹⁸ VZ also

¹⁴ 3-1-01 Tr. at 207-11; 3-21-01 Tr. at 36-51, 54-60, 67-70, 168- 72.

¹⁵ See 3-21-01 Tr. at 174 and *Checklist Declaration on Behalf of Verizon Pennsylvania Inc. Declarants: Donald E. Albert, et al.* ¶¶ 327- 329 at 138.

¹⁶ 3-21-01 Tr. at 101-02.

¹⁷ 3-1-01 Tr. at 115-16; 3-21-01 Tr. at 102-05.

¹⁸ See *Checklist Declaration VZ Declarants: Donald E. Albert, et al.* ¶ 335 at 140.

testified that its quality assurance team (put in place at VZ's own discretion to monitor the quality of directory listings since July 2000) measured 98 to 99 percent accuracy per week by comparing the LSR to the service order.¹⁹ The GE-1-01 metric, the only metric currently reported by VZ that reports exclusively on the data transmitted concerning directory listings information, has been satisfied.²⁰ "From June to November 2000, [VZ] provided 100% of directory LVRs 30 business days prior to the 'service order close' date for the particular White Page directory. (The Commission-mandated performance standard is that 95% of LVRs be provided on time.)"²¹ Lastly, as stated by Dr. Stanford Levin for the OSBA,

the standard for checklist compliance, including number 8, white pages, can't be perfection. Nothing is perfect. There are always going to be problems with [w]hite [p]ages listings.... You'll have [problems] in a competitive environment.²²

None of these facts have been successfully rebutted by the CLECs.²³

¹⁹ 3-30-01 Tr. at 238-43.

²⁰ The metric measures the percentage of directory listing verification reports ("LVRs") transmitted from VZ to CLECs and Resellers on or before the 30 business days prior to the close out date for the directory. The OSBA questions the meaningfulness of the metric to the accuracy of the directory listing information as it only measures the timeliness of said information getting to the CLECs and Resellers.

²¹ *Checklist Declaration of VZ Declarants: Donald E. Albert, et al.*, ¶ 334 at 140 (parenthetical in original).

²² 3-01-01 Tr. at 156.

²³ The OSBA notes several challenges to the accuracy of the OR-6 metric which measures the accuracy of the orders (i.e. OR-6-01 orders without VZ errors and OR-6-03 local service request confirmation accuracy, "LSRC"). *See, AT&T Communications of Pennsylvania, Inc.'s Comments Concerning February 2001 Commercial Experience Data*, Docket No. M-00001435, filed April 12, 2001 ¶ 2 at 9-10; *Comments of XO Pennsylvania, Inc. on Verizon Pennsylvania Inc.'s February 2001 Carrier-to-Carrier Reports*, Docket No. M-00001435, filed April 12, 2001 ¶¶ 3,4 at 2. Because the LSRs have more information than just the white pages listing data, (includes provisioning service data) the discrepancies of accuracy with that data are difficult to refute to the accuracy claims of VZ concerning white

b. Parity Sub-issue – Process

The process for the directory white pages listing information starts with specific information filled in by the CLEC on the LSR. VZ receives this information either through a WEB Graphical User Interface (“GUI”) or an Electronic Data Interface (“EDI”).²⁴ It is the discretion of the CLEC or Reseller as to which interface they use.

Less than 50% of the LSRs flow through to completion without human intervention.²⁵ The critical determination of whether the order can “flow-through” is whether it is a complex order or a simple Plain Old Telephone Service (“POTS”) with six lines or less.²⁶ It is the latter criterion with the contingency of the number of lines that the OSBA finds questionable. Ideally, the process should simulate flow-through regardless of size or complexity of the customer’s service. The OSBA understands and VZ agrees that automation is not error free; however, the possibility of mistakes decreases.²⁷ The OSBA had been in negotiations with VZ and other parties to find a mutually agreeable procedure to implement “as is” requests for more than six lines automatically. Various ideas were introduced, but no mutually agreeable solution resulted, particularly as time and the robustness of the fix required became critical issues.²⁸

pages exclusively. See also 3-13-01 Tr. at 17.

²⁴ 3-01-01 Tr. at 11.

²⁵ Id. See also, VZ Exhibit No. 1.

²⁶ Id. at 33-36.

²⁷ Id. at 14 (our focus should really be on the manually processed orders).

²⁸ Among the ideas were: (1) cut and paste feature in word processing software so that manual typing is decreased; (2) setting up a macro to cut and paste information so that human intervention is decreased; (3) augmenting system interface software so that the system has capability to access directory listing information only of migrating customer for “as is” que from the customer service report to bring forward and populate the correct fields on the

A further example is process flow of data of the independent rural carrier versus the CLEC versus VZ retail. The CLEC that has a customer with more than six access lines or a complex LSR interfaces with the Telecom Industry Services Operations Center (“TISOC”) which manually types the LSR as a service order into the service order processor (“SOP/DOE”).²⁹ Additionally, the Verizon Information Service (an affiliate of VZ that is charged with the white pages publication, “VIS”) provides a listing verification report at least thirty (30) days before the close out date for the directory to the CLEC.³⁰ Here, contrary to the set rules, there is an ad hoc process to accommodate the CLECs to get LVR corrections to the VIS in hopes that the publications will not have the errors that are contained in the LVR. This segment of the process was referred to as the “fire drill” in the technical conference.³¹ During the fire drill the CLECs apparently communicate directly with VIS personnel. The independent rural carriers interact with the employees from VIS to set up their schedules for insertion into the directories. The VIS receives service orders and tapes containing the independent rural’s listings once a year.³² The VZ retail customer negotiates with the representative at the VZ business office. Thus, the retail customer interacts with the representative who enters the specific directory listing information into the SOP/DOE.³³ The consensus of all the parties involved with the white pages is to eliminate the need for the fire drill with a procedure that enhances automatic generation of directory listing data from the CLEC to the VIS. The CLEC

LSR automatically as an improvement to the interface software (LSOG 4).

²⁹ 3-01-01 Tr. at 33-36

³⁰ Id at 38-39.

³¹ 3-30-01 Tr. at 163-66, and 3-01-01 Tr. at 95.

³² 3-01-01 Tr. at 107-08.

³³ Id at 145.

community thus sees the retail customer and the independent rural carrier interacting directly with VIS, while the process only allows direct interaction by a CLEC with VIS in a panic mode. To no one's surprise the CLECs contend that these arrangements do not constitute parity in the process.

The OSBA does not insist that the processes for the CLEC's customer and VZ's customer be the same. Here again the parity standard cannot be 100% the same.³⁴ The OSBA understands that the process of the CLEC is going to be somewhat different from the process of VZ's retail customer as the integrity and accountability of its internal systems must remain intact for auditing, accountability and proprietary purposes. However, the OSBA is concerned that process differences of automation versus manual entry and process flow determinations based upon the types of services the CLEC provides to the end user, may cause errors more egregious to the CLECs' customer than to VZ's retail customer.

The OSBA believes that, should the Commission grant approval to VZ's Petition at this docket, said approval should be conditioned upon a date certain to test and implement automation of the process for the migrating of a VZ customer to a CLEC with the customer's directory listing remaining "as is". Additionally, on a going-forward basis, collaboratives or technical conferences with oversight by the Commission could result in solutions to improve the process and address future problems that are not apparent currently.³⁵

2. Summary Cross-Reference to Metric Issues

A liberal interpretation of the record reads that OR-6, OD-3, and GE-1 are considered as the metrics comparable to white pages listing directory data. The OSBA finds that the existing metrics do not adequately monitor the accuracy of the data contained in the white pages listings.

³⁴ *See supra*, footnote 22.

³⁵ *See* OSBA Statement No. 1 at 15-18.

Furthermore, the existing metrics do not serve as indicators of whether the CLECs' listings are achieving parity with the VZ retail customers' listings. Consequently, a metric performance indicator of the degree of accuracy and parity of the white pages product does not exist.

In the following section, the OSBA recommends a remedy to adequately monitor white pages. The OSBA proposes a metric to be tied to the liquidated damages within the performance assurance plan framework which addresses the accuracy and product parity issues for white pages.

B. Metrics, OSS and Performance Assurance Plan

The metrics considered relevant to the white pages checklist item 8 are: (1) OR-6 Order Accuracy, (2) OD-3 Directory Assistance Database Update Accuracy, and (3) GE-1 Directory Listing Verification Reports. The OR-6 sub-metrics concern the LSRs. However, the LSRs contain information that is not relevant to white pages directory listings.³⁶ Consequently, the cause of unsatisfactory performance of this metric could be irrelevant to white pages directory listings problems.

The OD-3 metric monitors the directory assistance database. Although the directory assistance database and the white pages directory listings data have common origins, these databases are separate and distinct.³⁷ The OD-3 metric is an inadequate indicator of white pages directory listings issues because it monitors the directory assistance database exclusively.

Lastly, the GE-1 sub-metric monitors the LVRs timeliness. The OSBA is pleased that this metric does address the white pages listing data exclusively. However, the OSBA finds that the substance of the metric is wanting as an indicator of the accuracy of the data contained in the LVR.

³⁶ See *supra* footnote 23.

³⁷ 3-13-01 Tr. at 17-19.

The meaningful performance that affects the end user is the data contained on the LVR which is not measured by this sub-metric.

The record supports the need for a performance metric that is an indicator of the substance of the LVR (the listing data and its appearance) as compared with what was requested by the CLEC. If this comparison achieves high accuracy, errors in the white pages listing directory publication should be minimized.

On a going-forward basis, the monitoring of the white pages product parity should be addressed to guard against backsliding. VZ admits that omissions have resulted in the issuance of supplemental directories in 1998, 1999 and 2000.³⁸ The Commission may need tools and indicators in place to see if such supplements are recurring instances within a specific directory area, specific types of CLECs, or a particular directory.³⁹ Said metric should be tied to the performance assurance plan damages. Since VZ has stipulated that an error or omission in a directory results in an economic hardship to the end user,⁴⁰ compensation should benefit the end user harmed. Additionally, an error or omission of a CLEC customer's listing has a chilling effect on the competitive market.⁴¹ The OSBA envisions the oversight to be dynamic in guarding against backsliding, while establishing a framework to be proactive in addressing future occurrences that are a detriment to the public, the CLECs and VZ.

The OSBA stops short of recommending that the absence of the metric should bar approval of the *VZ 271 Petition*. The metric and assurance plan were established at Docket No.

³⁸ 3-21-01 Tr. at 102-05.

³⁹ See OSBA Statement No. 1 at 19-20.

⁴⁰ 3-01-01 Tr. at 99-101.

⁴¹ 3-01-01 Tr. at 204-05.

P-00991643.⁴² It is inequitable to impede *VZ's 271 Petition* on this issue at this late date especially since the OSBA was not a party to the proceeding that contained the determination of the metric and performance assurance plan. Essentially the adage that an objection delayed is an objection waived applies.⁴³ The OSBA further observes that if such an objection is considered now, VZ may never achieve approval of its *271 Petition* given that developments in technology could require implementation of metrics for correlated uses of service that do not even exist today. Such a result would be unjust and would deter VZ from entry into the competitive marketplace. Thus, such a practice would not be in the public interest.⁴⁴

VZ has repeatedly said that it does not collect data of omissions and errors for its retail customers.⁴⁵ The OSBA does not request the Commission to direct VZ to track its errors by category. Doing so may add to the costs borne by the captive ratepayer, at least in terms of slower responsiveness by VZ with resources for innovations and maintenance. Instead, the OSBA seeks to implement a measure that serves as a problem indicator but is not intrusive to the efficiency of the process and does not require extra input from the CLECs.⁴⁶

⁴² *Joint Petition of Nextlink, et al. for an Order Establishing a Formal Investigation of Performance Standards, Remedies and Operations Support Systems Testing for Bell Atlantic-Pennsylvania, Inc.*, "PMO Order" initially entered 12-31-99, subsequently adopted 7-20-00.

⁴³ The OSBA finds it ironic that the metric GE-1 was instituted, "because without a metric and performance standard to evaluate directory ..., it is not possible to assure CLEC parity." *PMO Order*, Docket No. P-00991643, entered 12-31-99 at 129.

⁴⁴ 47 U.S.C. § 253 (a).

⁴⁵ See *supra* footnote 10.

⁴⁶ 3-01-01 Tr. at 233-34.

It has been suggested in negotiations to institute a set benchmark, perhaps one error per 1,000 listings, as a substitute for parity.⁴⁷ This idea should be pursued and refined within the collaboratives or technical conferences as part of the OSBA recommendation. However, the OSBA requests the Commission to direct resolution and implementation of said solution by a date certain.⁴⁸ The benchmark should be reported by the implementation date.⁴⁹

C. Other Relevant Issues

1. Effect of pending litigation and appeals

VZ has several pending appeals related to *VZ's 271 Petition* that merit discussion, namely the Petitions for Allowance of Appeal now pending in the Pennsylvania Supreme Court at Docket Nos. 55, 57, 58, 59, and 60 EAL 2001. These appeals to the Pennsylvania Supreme Court challenge the Commission's *Global Order*. VZ has also filed a Complaint against the *Global Order* in Federal District Court at Docket NO. 99-CV-5391 (E.D. of Pa.). VZ also has an appeal of the Commission's *PMO Order* in Pennsylvania Commonwealth Court; that appeal challenges the Commission's authority to levy liquidated damages under the remedies of Tier II and Tier III.

The Commission in its Opinion and Order for Structural Separation of VZ directed VZ to provide notice by no later than April 20, 2001 that it will "withdraw all state and federal courts challenges to the *Global Order*, with the exception of the structural separation issue."⁵⁰ If VZ

⁴⁷ This idea originated from AT&T. Timing prevented pertinent discussion on this suggestion for development, and consensus.

⁴⁸ The OSBA envisions two times ordered, one for the solution date, and the other for the implementation date.

⁴⁹ Non-reporting of statistics such as "Under-Review" and "Under-Development" and the like are not a satisfactory option after the implementation date.

⁵⁰ *Re: Structural Separation Of Bell Atlantic-Pennsylvania, Inc. Retail and Wholesale Operations ("Structural Separation Order")*, Docket No. M-00001353, entered

should comply with that option, the relevance of the challenges to the *Global Order* becomes moot. However, even if VZ does comply with the *Structural Separation Order* option by April 20, 2001, the *PMO Order* appeal remains outstanding.

The OCA states in its comments that,

As a result of the *Global Order* and [the] *PMO Order*, the Commission has created a framework that VZ relies upon in its 271 [Petition]. Yet, VZ is concurrently seeking to reverse the Commission's rulings on matters such as ... funding of state Universal Service Fund ("USF"), under the *Global Order*, and the imposition of Tier II and Tier III remedies, inclusive of liquidated damages, under the *PMO Order*.⁵¹

VZ cannot have its cake and eat it too. It is inconsistent to rely on the *Global Order* and *PMO Order* to reach the status of a 271 Petition and yet challenge the keystones on which those Commission Orders were based. If those challenges are successful after the 271 Petition is granted, VZ would have effectively destroyed the bedrock upon which competition exists in Pennsylvania. Such a result would be absurd and recklessly abandon the protection of the public interest.

The OSBA concurs with the Commission's declaration in the *Structural Separation Order* that VZ should withdraw its state and federal appeals concerning the *Global Order* except for VZ's challenge to structural separation. The OSBA suggests that the declaration be modified to include also the withdrawal of the state appeal of the *PMO Order*.

2. Public Interest

The OSBA incorporates the Testimony of Dr. Levin, OSBA Statement No.1 at 4-12 concerning the public interest. The perfection standard is unrealistic, and thus VZ should be held to a standard of reasonableness in compliance with the checklist items for 271 approval.

April 11, 2001, at 38.

⁵¹ *Comments of the Office of Consumer Advocate*, Docket No. M-00001435, filed February 12, 2001 at 5.

Several parties have indicated that the public interest issue should be heard in the context of this proceeding.⁵² The OSBA adopts these comments as specified by reference. The presiding ALJs issued discovery Orders that effectively barred the public interest consideration from the Commission's action in this proceeding.⁵³ As stated by the PCTA,

[T]he Commission's power and duty is to consider and act in the public interest when deciding matters related to public utilities in the Commonwealth....This is consistent not only with statements by courts related to the Commission's powers and duties, but also the general grants of authority to the Commission in the Public Utility Code.⁵⁴

The Commission would commit egregious error if the public interest arguments continue to be excluded from the record here.

The Report of the State Corporation Commission of the State of Kansas on Southwestern Bell Telephone Company's Compliance with Section 271, discusses consideration of the public interest issue only after that Kansas Commission had determined that all the 271 checklist items

⁵² See, *Office of Trail Staff Comments*, Docket No. M-00001435, filed February 12, 2001, at 10-12; *Office of Small Business Advocate Response to Orders Granting in Part and Denying in Part the Motion to Compel of AT&T Communications of Pennsylvania, Inc. and Denying in Part the Motion to Compel of Sprint, in toto*, Docket No. M-00001435, filed February 15, 2001; *Response of the Office of Consumer Advocate to Rulings Made Concerning the Public Interest, in toto*, Docket No. M-00001435, filed February 16, 2001; and *Reply in Support of Office of Small Business Advocate & Office of Consumer Advocate Pleadings on Public Interest ("PCTA Public Interest Response")*, in toto, Docket No. M-00001435, filed March 13, 2001.

⁵³ See *Order Granting In Part and Denying In Part the Motion to Compel of AT&T Communications of Pennsylvania, Inc.*, Docket No. M-00001435, at 1-2, issued February 9, 2001; and *Order Denying Motion to Compel of Sprint*, Docket No. M-00001435, at 1-2, issued February 12, 2001.

⁵⁴ *PCTA Public Interest Response*, Docket No. M-00001435, filed March 13, 2001 at 2-3 (citations omitted).

were met.⁵⁵ Noting that the decision is a policy determination and that the FCC must make a finding that approval of the request to provide in-region, interLATA service is consistent with the public interest, convenience and necessity, the Kansas Commission did, in fact, accept comment on this issue.⁵⁶ The citizens of Pennsylvania deserve nothing less from our PUC.

⁵⁵ *In the Matter of Application of SBC Communications, Inc. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Kansas and Oklahoma*, Docket No. 00-217, dated November 20, 2000, at 36-38.

⁵⁶ *Id.* at 36 (citing 47 U.S.C. § 271(d)(3)(C)).

III. CONCLUSION

For the reasons set forth in these Comments, and previously stated in OSBA Statement No. 1, the Office of Small Business Advocate does not oppose the approval of the 271 Petition of Verizon Pennsylvania at this docket, but urges the Commission to implement the alternative proposals of the Office of Small Business Advocate consistent with the arguments contained herein and in the previously filed OSBA Statement No. 1.

Respectfully submitted,

Angela T. Jones
Assistant Small Business Advocate

Dated: April 18, 2001

APPENDIX

C

RESPONSE OF THE OFFICE OF SMALL BUSINESS ADVOCATE TO STAFF'S DATA REQUEST NUMBER 1 DATED May 7, 2001 SUBMITTED IN DOCKET NO. M-00001435 BEFORE THE PA PUBLIC UTILITY COMMISSION

REQUEST:

What is your response to the material submitted by Verizon in response to the questions above? Explain why you now believe Verizon meets or does not meet compliance with checklist item number 8 of Section 271.

RESPONSE:

The responses by Verizon do not change the position the OSBA took in its Final Comments filed April 18, 2001 in this proceeding. The OSBA appreciates the efforts of the Staff, Verizon, the Public Advocates and specific CLECs with white pages concerns in trying to move forward on this issue to arrive at mutually beneficial remedies for the near-term and permanently. On May 11, 2001 the OSBA along with interested parties to the white pages issue, participated in a conference to discuss proposed remedies for the processing of white pages. The OSBA finds the result of this conference unfortunate for the consumer as the CLEC community's decision was to keep things in abeyance for now to arrive at a more permanent remedy in the future. The OSBA did not participate in the voting for the proposed remedies.

The OSBA found Verizon's willingness to take actions to remedy perceived problems with the processing of white pages information to address concerns of the CLECs admirable. However, the action the CLECs took brings into question whether there exists an issue here currently that unreasonably impedes the CLECs' operation. After all, the CLECs decided to have the process remain as is with no upgrade implemented before February 2002 at the earliest. Hence, the OSBA does not oppose approval of Verizon's 271 Petition based upon the evidence supplied concerning the white pages directory listings. 47 U.S.C. § 271(c) (2) (B)(viii).

The OSBA and the other Public Advocates have repeatedly suggested implementation of a metric to measure the errors and omissions of white pages directory listings for CLEC customers versus the same for Verizon customers to insure product parity. The offer by Verizon to provide a sub-metric to the existing OR-6 is not a sufficient remedy. What Verizon proposes through this measure is what Verizon says the Quality Assurance Team ("QAT") is already performing on the directory listing information of the Local Service Requests and Directory Service Requests. The information the QAT provides is pre-service order reports (In-Hearing Data Request #48 Dated March 5, 2001 Response). Verizon does not track post-service order errors (In-Hearing Data Request #49 March 5, 2001 Response). Said QAT has been in place since July 2000; however, the errors in the white pages directory listings have not been meaningfully impacted to the satisfaction of the CLECs who advocated this issue.

The OSBA desires this metric to monitor product parity delivered to the retail customer of Verizon versus the retail customer of the CLECs and to discern whether the proposed remedy for white pages is effective. The risk of the competitive marketplace and the consumer suffering the harm of an

ineffective remedy merits the check and balance of a metric coordinated with the Performance Assurance Plan ("PAP"). This metric in tandem with the PAP uses the white pages directory listings as an effective anti-competitive backsliding deterrent. The OSBA continues to request that the Commission impose a metric (reported for each specific CLEC and in the aggregate) for white pages consistent with our Final Comments filed April 18, 2001.